

**REMARKS**

Claims 1-47 are pending in the present application. Claims 3, 4, 17, 20-29 and 33-47 are withdrawn. By virtue of this response, claims 2, 6, 15, and 32 have been cancelled, and claims 1, 5, 7-12, 30, and 31 have been amended. Accordingly, claims 1, 5, 7-14, 16, 18, 19, 30 and 31 are currently under consideration.

Claim 1 is amended to delete the phrases “and/or renal failure” and “prevent exacerbation of symptoms, and/or prevent” and to incorporate the claim limitations of original claims 2 and 6. Claims 5 and 7-12 are amended to depend from claim 1. Claim 30 is amended to delete the phrase “and/or renal failure.” Claim 31 is amended to a dependent claim that depends from claim 1 and is amended to delete the phrase “prevent exacerbation of symptoms, and/or prevent” and the step (b). No new matter has been added by virtue of these amendments.

With respect to the amendment and cancellation of claims, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover, have not acquiesced to any rejections and/or objections made by the Office. Applicants expressly reserve the right to pursue prosecution of any presently excluded claim embodiments in future continuation, continuation-in-part, and/or divisional applications.

***Claim Rejections – 35 USC § 112***

Claims 1, 2, 5-16, 18 and 19 are rejected under 35 U.S.C. § 112 as allegedly failing to satisfy the enablement requirement. Applicants respectfully traverse this rejection.

The Examiner states that the specification does not reasonably provide enablement for a method of treating heart failure in a patient comprising delivering a flowable thermoplastic polymer composition comprising CGRP to prevent exacerbation of symptoms or prevent progression of the disease state of heart failure. Office Action at page 3. Applicants respectfully disagree.

Without acquiescing to the Examiner’s statement and solely in an effort to expedite prosecution, Applicants have amended claim 1 to delete the phrase “prevent exacerbation of

symptoms” and replace “prevent and/or delay progression of the disease state of heart failure” with “delay progression of the disease state of heart failure,” thus obviating the Examiner’s rejection. Applicants have cancelled claims 2, 6, and 15.

In view of the foregoing, Applicants respectfully request the withdrawal of the rejection regarding claims 1, 5, 7-14, 16, 18, and 19 under 35 USC § 112.

***Claim Rejections – 35 USC § 102(b)***

Claims 1, 15, 16, 18 and 31 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Wo et al.* (“Wo,” EP 0845269 A2, March 6, 1998). Applicants respectfully traverse this rejection.

Solely in an effort to expedite prosecution, Applicants have amended claim 1 to incorporate the claim limitations of original claims 2 and 6. Applicants wish to note that original claims 2 and 6 are not rejected by the Examiner under 35 U.S.C. § 102(b). Thus, amended claim 1 that includes the claim limitations of original claims 2 and 6 is novel and the Examiner’s rejection under 35 U.S.C. § 102(b) is obviated by the claim amendment of claim 1.

Claim 15 has been cancelled. Claim 31 has been amended to a dependent claim that depends from amended claim 1. Claims 16, 18 and 31 as amended depend from independent claim 1 as amended and are novel at least for the same reasons that amended claim 1 is novel over *Wo*.

In view of the foregoing, Applicants respectfully request the withdrawal of the rejection regarding claims 1, 16, 18 and 31 under 35 USC § 102(b).

***Claim Rejections – 35 U.S.C. § 103(a)***

***Rejection of claim 19 under 35 U.S.C. § 103(a) over Wo***

Claim 19 is rejected under 35 U.S.C. § 103(a) as allegedly being obvious over *Wo*. Applicants respectfully traverse this rejection.

Claim 19 depends from claim 1 and recites a pediatric patient. Applicants have amended independent claim 1 to incorporate the claim limitations of original claims 2 and 6. Applicants wish to note that original claim 6 has not been rejected under 35 U.S.C. § 103(a). Thus, independent claim 1 as amended that includes the limitations from original claim 6 is not obvious over Wo. Accordingly, claim 19, which depends from amended claim 1, is not obvious over Wo at least for the same reasons that amended claim 1 is not obvious over Wo.

In view of the foregoing, Applicants respectfully request the withdrawal of the rejection regarding claim 19 under 35 USC § 103(a).

*Rejection of claims 2, 5, 9-11 and 32 under 35 U.S.C. § 103(a) over Wo and Chandrashekar*

Claims 2, 5, 9-11 and 32 are rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Wo as applied to claims 1, 15, 16, 18 and 31 and further in view of Chandrashekar *et al.* (“Chandrashekar,” U.S. Patent No. 6,143,314, November 7, 2000). Applicants respectfully traverse this rejection.

Applicants have cancelled claims 2 and 32 and amended independent claim 1 to incorporate the claim limitations of original claims 2 and 6. Applicants wish to note that original claim 6 has not been rejected under 35 U.S.C. § 103(a). Thus, independent claim 1 as amended that includes the limitations from original claim 6 is not obvious over Wo in view of Chandrashekar. Accordingly, claims 5 and 9-11, which depend from independent claim 1 as amended, are not obvious over Wo in view of Chandrashekar at least for the same reasons that amended claim 1 is not obvious over the cited references.

In view of the foregoing, Applicants respectfully request the withdrawal of the rejection regarding claims 5 and 9-11 under 35 USC § 103(a).

***Claim Objections***

Claims 1, 15, 16, 18, 19 and 31 are objected to as allegedly reciting non-elected subject matter. Office Action at page 7. Claim 15 has been cancelled without prejudice. Applicants have amended independent claim 1 to delete the phrase “renal failure,” thus obviating the Examiner’s objection regarding claim 1 and claims 16, 18, and 19 that depend from amended claim 1. Applicants have amended claim 31 to a dependent claim that depends from claim 1 and to delete the phrase “renal failure,” thus obviating the Examiner’s objection regarding claim 31.

Claims 1, 30, and 31 are objected to as allegedly reciting the phrase “and/or.” Office Action at page 7. Applicants have amended claims 1, 30, and 31 to delete the phrase “and/or,” thus obviating the Examiner’s objection.

In view of the foregoing, Applicants respectfully request the withdrawal of the objections.

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 560252000700. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: January 21, 2011

Respectfully submitted,

E-Signature: /Madeline I. Johnston/

Madeline I. Johnston

Registration No.: 36,174

MORRISON & FOERSTER LLP

755 Page Mill Road

Palo Alto, California 94304-1018

(650) 813-5840